

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

JOHN MCGUIRE

Plaintiff(s),

*-against-*ROMAN CATHOLIC DIOCESE OF BROOKLYN, NEW  
YORK

Defendant(s).

Index No.

*Summons*

Date Index No. Purchased:

To the above named Defendant(s)

Roman Catholic Diocese of Brooklyn, 310 Prospect Park West, Brooklyn, NY 11215

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

The basis of venue is Defendants' principal place of business  
which is in Kings County

Dated: August 14, 2019

Seeger Weiss LLP

by 

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***Attorneys for Plaintiff***

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS  
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JOHN MCGUIRE,

Index No. \_\_\_\_\_

Plaintiff,

-against-

**COMPLAINT**

ROMAN CATHOLIC DIOCESE OF BROOKLYN,  
NEW YORK,

**JURY TRIAL DEMANDED**

Defendant.  
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Plaintiff, John McGuire, by and through the undersigned attorneys, complains of Roman Catholic Diocese of Brooklyn, New York and alleges, on personal knowledge as to himself and on information and belief as to all other matters, as follows:

**PARTIES**

1. Plaintiff John McGuire is a sixty-eight-year-old resident of Pennsylvania. Plaintiff was approximately nine years old at the time of the sexual abuse alleged herein.

2. Defendant Roman Catholic Diocese of Brooklyn, New York a/k/a Diocese of Brooklyn ("Brooklyn Diocese") was and continues to be an organization or entity which includes, but is not limited to, civil corporations, decision making entities, officials and employees authorized to conduct business in the State of New York with its principal place of business at 310 Prospect Park West, Brooklyn, New York 11215.

**JURISDICTION AND VENUE**

3. This Court has personal jurisdiction over Defendant pursuant to CPLR §§301 and 302, in that Defendant resides in New York or Plaintiff's claims arise from the tortious acts of Defendant that were committed in the State of New York.

4. The Court has jurisdiction over this action because the amount of damages Plaintiff seeks exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

5. Venue is proper in the County of Kings under CPLR §503 because at least one of the parties to this suit reside in this county at the time this suit was commenced.

6. The federal courts lack jurisdiction over this suit. Plaintiff's claim raises no federal question nor does Plaintiff seek relief under a federal law, statute, regulation, treaty, or the United States Constitution. Accordingly, Plaintiff's right to relief does not depend on the resolution of a substantial question of federal law. Further, this lawsuit cannot be removed because there is no complete diversity, as Defendant has its principal place of business in New York. Therefore, removal would be improper.

### **FACTS**

7. James Sickler ("Sickler") was ordained a Roman Catholic priest in 1952 and served within the Brooklyn Diocese at St. Pancras Roman Catholic Church, 72-22 68<sup>th</sup> Street, Glendale, Queens, New York 11385. He was ordained in 1952. He died in October of 1996.

8. Sickler is listed on BishopAccountability.org in the database of publicly accused priests in the United States, which indicates that Sickler was accused of sexual abuse from 1959 to 1961 by another man, who was 14 when Sickler asked the man to join a "secret club" in the restroom of the parish elementary school. There was a handshake for this "secret club" which involved manipulating each other's genitals.

9. Plaintiff attended St. Pancras Roman Catholic Church's school from kindergarten to eighth grade. Plaintiff was sexually abused by Sickler when Plaintiff was approximately nine years old, during the school year of 1959 to 1960 while in the fourth grade and in the first church choir. Sickler would lurk outside the church and wait for the boys to come out of the church after

choir practice. Sickler would always wear a long black cape while he was waiting. When Plaintiff walked by him, Sickler would wave his cape over Plaintiff and bring him under the cape. While Plaintiff was under the cape, Sickler would grab and fondle Plaintiff's genitals. This happened on three separate occasions. On the third occasion Plaintiff punched Sickler in the groin area and escaped. Plaintiff managed to avoid Sickler after the third instance of sexual abuse.

10. Defendant Brooklyn Diocese knew of the past complaints of sexual abuse or should have known about such sexual abuse and moved Sickler from church parish to other church parish to hide and cover up Sickler's sexual abuse allegations; placing others such as plaintiff in danger of sexual abuse by Sickler.

11. Due to Sickler's sexual abuse of plaintiff, he suffered and continues to suffer from chronic mental health issues, all of which have required and/or will require counseling and other treatment.

**CAUSES OF ACTION AGAINST DEFENDANT ROMAN CATHOLIC DIOCESE OF  
BROOKLYN, NEW YORK**

**A. VICARIOUS LIABILITY/*RESPONDENT SUPERIOR***

12. Plaintiff incorporates each and every allegation set forth in paragraphs 7 through 11 as if fully set forth herein.

13. Plaintiff affirmatively pleads that any alleged tortious acts of Sickler were committed while he was acting in the course and scope of his employment with Defendant Brooklyn Diocese or while he was acting as an agent or on behalf of Defendant Brooklyn Diocese and are thus imputed to Defendant Brooklyn Diocese under a legal theory of *respondent superior*.

**B. NEGLIGENCE**

14. Plaintiff incorporates each and every allegation set forth in paragraphs 7 through 13 as if fully set forth herein.

15. Defendant Brooklyn Diocese held itself out to be a safe place for religious worship, spiritual development and growth, learning and education, or engaging in youth and/or community activities. Defendant Brooklyn Diocese had adopted, and/or assumed an express and/or implied duty to provide a reasonably safe environment for Plaintiff and assumed the duty to protect and care for him.

16. Defendant Brooklyn Diocese owed a duty of care to all minor persons, including Plaintiff, who were likely to come within the influence or supervision of Sickler, in his role as teacher, priest, counselor, trustee, director, officer, employee, agent, servant and/or volunteer.

17. Defendant Brooklyn Diocese breached its duties of care in one or more of the following ways:

- a. Negligently hiring Sickler as it knew or should have known that Sickler posed a threat of sexual abuse to children;
- b. Negligently retaining Sickler as it knew or should have known that Sickler posed a threat of sexual abuse to children;
- c. Negligently directing Sickler as it knew or should have known that Sickler posed a threat of sexual abuse to children;
- d. Negligently assigning and transferring Sickler as it knew or should have known that Sickler posed a threat of sexual abuse to children;
- e. Negligently supervising Sickler as it knew or should have known that Sickler posed a threat of sexual abuse to children;
- f. Failing to investigate the background of Sickler before placing him into close contact with Plaintiff;
- g. "Covering up" or otherwise failing to disclose the harmful acts of Sickler;
- h. Failing to warn Plaintiff, his parents and/or legal guardians of Sickler's conduct despite having constructive knowledge of sexual abuse;
- i. Failing to warn Plaintiff, his parents and/or guardians of Sickler's conduct despite having actual knowledge of sexual abuse;

- j. Assigning Sickler to have contact with Plaintiff despite having constructive and/or actual knowledge of sexual abuse;
- k. Minimizing, ignoring or excusing priestly misconduct over a period of decades;
- l. Failing to provide a safe environment to children and other parishioners within the churches, sacristies, schools and rectories operated and/or owned by the Archdiocese;
- m. Failing to train priests and Archdiocesan employees to identify signs of child molestation by fellow employees;
- n. Failing to implement and maintain effective policies and procedures to prevent sexual abuse and abuse of children;
- o. Failing to investigate complaints of abuse properly;
- p. Failing to report Sickler's sexual abuse to appropriate law enforcement agencies; and
- q. Failing to exercise due care under the circumstances.

18. As a foreseeable, direct, and proximate result of Defendant Brooklyn Diocese's negligence, Plaintiff has suffered and will continue to suffer the injuries described herein.

### **C. GROSS NEGLIGENCE**

19. Plaintiff incorporates each and every allegation set forth in paragraphs 7 through 9 as if fully set forth herein.

20. Defendant Brooklyn Diocese's acts and omissions, as previously described, were committed with complete and reckless disregard for, and with willful, wanton, and actual conscious indifference to, the rights, safety, and welfare of Plaintiff and the general public. The nature of Defendant Brooklyn Diocese's acts and omissions were of such a nature as to constitute gross negligence and malice. Specifically, Defendant Brooklyn Diocese undertook a continuous course of action in the form of conscious decisions, with subjective knowledge and awareness of the risks and hazards presented by each decision as discussed above and incorporated herein, to



expose Plaintiff and others to sexual abuse and/or sexual assault, and exercised not even slight care or diligence. When viewed objectively from the standpoint of Defendant Brooklyn Diocese at the time of their occurrence, said acts and omissions involved reckless disregard of or indifference to an extreme degree of physical, mental, and psychological risk and danger, considering the probability and the magnitude of the potential harm to others. Defendant Brooklyn Diocese committed various acts and omissions constituting gross negligence, as outlined above. Such gross negligence was a foreseeable, direct, and proximate cause of the occurrence and Plaintiff's injuries and damages.

**D. BREACH OF FIDUCIARY DUTY**

21. Plaintiff incorporates each and every allegation set forth in paragraphs 7 through 9 as if fully set forth herein.

22. There is a fiduciary relationship between Plaintiff and Defendant Brooklyn Diocese. This relationship is based on the fact that Plaintiff trusted his physical, mental, psychological, and spiritual care to the priests, officers, directors, officials, employees, volunteers, servants, and/or all those acting as agents of Defendant Brooklyn Diocese or on its behalf, who held themselves out as beholden to a spiritual and interpersonal duty to provide advice, benefit, and guidance to Plaintiff.

23. Because of this fiduciary relationship, Defendant Brooklyn Diocese was required and had a duty to act in the best interests of Plaintiff and to protect him while he was a minor child.

24. Defendant Brooklyn Diocese breached its fiduciary duty to Plaintiff.

25. As a foreseeable, direct, and proximate result of Defendant Brooklyn Diocese's breach of fiduciary duty, Plaintiff has suffered and will continue to suffer the injuries described herein.

**E. BREACH OF NON-DELEGABLE DUTY**

26. Plaintiff incorporates each and every allegation set forth in paragraphs 7 through 9 as if fully set forth herein.

27. When Plaintiff was a minor, he was placed into the care of Defendant Brooklyn Diocese for the purpose of providing Plaintiff with a safe environment in which to receive and education and/or participate in religious worship, spiritual development, and community service. Because Defendant Brooklyn Diocese was entrusted with the care of Plaintiff while he was a minor child, there existed a non-delegable duty of care that went from Defendant Brooklyn Diocese to Plaintiff.

28. Since Plaintiff was a minor child at the time, Defendant Brooklyn Diocese was in the best position to prevent the abuse that Plaintiff suffered at the hands of Sickler and/or stop such abuse when they learned of it.

29. Defendant Brooklyn Diocese failed to prevent the abuse and harm Plaintiff suffered, and/or it failed to stop the abuse once it was aware of or should have been aware of the abuse. This failure was a breach of Defendant Brooklyn Diocese's non-delegable duty to Plaintiff.

30. As a foreseeable, direct, and proximate result of this breach, Plaintiff suffered significant injuries and long-lasting damages.

**F. NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

31. Plaintiff incorporates each and every allegation set forth in paragraphs 7 through 9 as if fully set forth herein.

32. As described in Sections B-E, Defendant Brooklyn Diocese owed Plaintiff various duties, which Defendant Brooklyn Diocese negligently breached. Defendant Brooklyn Diocese's negligence unreasonably endangered Plaintiff and caused him to fear for his own safety.

33. As a foreseeable, direct, and proximate result of Defendant Brooklyn Diocese's negligence, Plaintiff suffered severe injuries, including but not limited to mental and emotional distress.

**G. BREACH OF DUTY *IN LOCO PARENTIS***

34. Plaintiff incorporates each and every allegation set forth in paragraphs 7 through 9 as if fully set forth herein.

35. While he was a minor, Plaintiff was entrusted by his parents to the control of Defendant Brooklyn Diocese for the purpose of providing Plaintiff an education and spiritual development.

36. During the times that Plaintiff was at school or present for spiritual development, he was under the control and supervision of Defendant Brooklyn Diocese. Defendant Brooklyn Diocese owed a duty to Plaintiff to act in loco parentis and to prevent foreseeable injuries.

37. Defendant Brooklyn Diocese breached its duty to act in loco parentis. As a foreseeable, direct, and proximate result of their breach of duty, Plaintiff suffered injuries.

**H. FRAUDULENT CONCEALMENT**

38. Plaintiff incorporates each and every allegation set forth in paragraphs 7 through 9 as if fully set forth herein.

39. For many years after Plaintiff's abuse at the hands of Sickler, Defendant Brooklyn Diocese engaged in a conscious, deliberate plan to conceal the abuse, including but not limited to:

- a. Concealing from the public the sexual abuse committed by Sickler;
- b. Concealing the identity of Sickler;
- c. Concealing from appropriate law enforcement officials the sexual abuse committed by Sickler against Plaintiff and/or other minors;
- d. Attacking the credibility of Plaintiff and/or other victims of Sickler; and

- e. Impeding or otherwise preventing Plaintiff and other victims from pursuing legal action against Defendant Brooklyn Diocese.
40. Defendant Brooklyn Diocese had a duty to disclose the information it concealed in Paragraph 41, and its concealment therefore amounted to a misrepresentation.
41. Defendant Brooklyn Diocese concealed this information with fraudulent intent, with the goal of inducing reliance.
42. Plaintiff, and others, justifiably relied upon Defendant Brooklyn Diocese's concealment of this material information.
43. As a foreseeable, direct, and proximate result of Defendant Brooklyn Diocese's concealment, Plaintiff suffered significant injuries.

### **DAMAGES**

44. Plaintiff seeks compensation for the following damages that resulted from this incident:
- a. Past mental anguish of Plaintiff, and that he will, in all probability, suffer mental anguish in the future;
  - b. Loss of spirituality and religious beliefs which has negatively affected his family life, participation in worship, education and spiritual growth, service to human needs and social life;
  - c. Past physical pain and suffering of Plaintiff, and that he will, in all probability, suffer physical pain and suffering in the future;
  - d. Past loss of enjoyment of life of Plaintiff, and that he will, in all probability suffer loss of enjoyment of life in the future;
  - e. The medical expenses that Plaintiff has incurred in the past and will, in all probability continue to incur in the future;
  - f. Suffering depression, anxiety, ulcers, self-blaming, feelings of unfulfilled life, feelings of anger, embarrassment, alcohol abuse, and self-esteem issue, in the past and in all probability suffering in the future;

- g. Past and future lost wages;
- h. Loss of earning capacity;
- i. Cost of suit;
- j. Reasonable and necessary attorney's fees;
- k. Punitive damages;
- l. Exemplary damages; and
- m. Any and all other damages to which Plaintiff may be justly entitled.

#### **PRESERVATION OF EVIDENCE**

45. Plaintiff hereby requests and demands that Defendant preserves and maintains all evidence pertaining to any claim or defense related to the incident made the basis of this lawsuit, or the damages resulting therefrom, including photographs; videotapes, audiotapes; recordings; business records; medical records; billing records; estimates; invoices; checks; correspondence; memoranda; files; facsimiles; e-mails; voicemails; text messages; investigations; cellular telephone records; calendar entries; and any electronic image, data, or information related to Plaintiff, the referenced incident, or any damages resulting therefrom. Failure to maintain such items will constitute spoliation of the evidence.

#### **JURY DEMAND**

46. Plaintiff demands a trial by jury on all issues so triable.

#### **PRAYER FOR RELIEF**

**WHEREFORE** Plaintiff prays that Defendant be cited in terms of law to appear and answer herein, that upon final trial and hearing hereof, that Plaintiff recovers damages from Defendant in accordance with the evidence; that Plaintiff recovers costs of court herein expended; that Plaintiff recovers interest to which Plaintiff is justly entitled under law, both prejudgment and

post-judgment; that Plaintiff recovers actual damages; that Plaintiff is entitled to recover compensatory damages; that Plaintiff recovers punitive damages; and for such other further relief; both general and special, both in law and in equity, to which Plaintiff is entitled.

Respectfully submitted,



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